
The original instrument was prepared by Thomas L. Tyler. The following digest, which does not constitute a part of the legislative instrument, was prepared by Laura Gail Sullivan.

DIGEST

Long (SB 607)

Present law (R.S. 23:1191-1200.5) provides generally for agreements to pool workers' compensation liabilities through group self-insurance funds. Present law provides that such an arrangement shall not be deemed to be insurance and shall not be subject to the provisions of the La. Insurance Code.

Present law (R.S. 22:46(9)(a) and (10)) defines the terms "insurance" and "insurer" for purposes of the La. Ins. Code.

Proposed law specifies that such terms do not include an arrangement or trust established pursuant to present law provisions regarding workers' compensation group self-insurance funds.

Present law (R.S. 22:47) classifies various types of insurance, including workers' compensation insurance.

Proposed law specifies that an arrangement or trust formed pursuant to present law provisions authorizing workers' compensation group self-insurance funds is not insurance nor is such arrangement or trust to be deemed to be insurance.

Present law (R.S. 22:48) lists certain entities that are regulated by specific provisions of the La. Ins. Code, including group self-insurers.

Proposed law specifies that an arrangement or trust that is a workers' compensation group self-insurance fund is not insurance nor is such arrangement or trust to be deemed to be insurance.

Present law (R.S. 22:451-469) generally regulates group self-insurers and self-insurance plans. Present law (R.S. 22:451) specifies that these provisions of the La. Ins. Code do not apply to any workers' compensation plan.

Proposed law specifies that these provisions do not apply to any arrangement or trust formed pursuant to present law group self-insurance funds formed under present law workers' compensation provisions. Further specifies that, for purposes of present law Insurance Code group self-insurance provisions, the term "self-insurance plan" shall not include arrangements or trusts that are workers' compensation group self-insurance funds.

Present law (R.S. 23:1168) provides various methods for securing compensation for employees. Provides specifically that compensation may be secured with group self-insurance authorized by present law provisions (R.S. 23:1195 et seq. or R.S. 33:1341 et seq.) for workers' compensation

group self-insurance funds or interlocal risk management agencies.

Proposed law makes technical corrections to present law.

Proposed law generally clarifies that employers who are members of a trade or professional association and who pool liabilities for injuries arising from the course and scope of the employment relationship pursuant to provisions of present law are not insurers and are not to be deemed insurance nor subject to the La. Ins. Code nor are member employers of any such arrangement insurers nor subject to the Code.

Proposed law provides for confidentiality of certain documents produced by, obtained by, or disclosed to the commissioner or any other person pursuant to the authority of the commissioner under present or proposed law. Provides for exceptions for reports or information discovered or developed in furtherance of any legal or regulatory action, for disclosures to regulatory or law enforcement entities agreeing to hold the report or information confidential, and for audited financial statements which have been filed with the Dept. of Ins.

Proposed law provides for the following in relation to group self-insurance funds for workers' compensation:

1. Upon request of the commissioner of insurance, a workers' compensation group self-insurance fund established pursuant to present law shall cause a rate review to be conducted by a national independent actuarial firm with findings to be reported to the commissioner; however, the commissioner shall not make more than two requests in a calendar year.
2. The commissioner shall examine each fund not less frequently than once every five years. Provides for such examinations.

Nothing in proposed law shall be construed to limit the commissioner's authority to terminate or suspend an examination in order to pursue other legal or regulatory action. Provides that findings of fact and conclusions of such examination are prima facie evidence in any legal or regulatory action.

3. Examination reports shall be comprised of facts only appearing on books, records, or documents of the group self-insurance fund or as ascertained from testimony of persons examined.

Provides for filing a verified written report of the examination with the Dept. of Ins. with an opportunity for the fund to make written submissions or rebuttal of information in the report.

The commissioner shall consider and review the report and order adoption of the examination as filed, or with modifications or corrections, or rejection of the report.

Provides for review of the refiled corrected report by the commissioner. Provides for orders by the commissioner and for confidential hearings before the commissioner.

Authorizes the commissioner to initiate proceedings or actions as a result of any examination.

Prohibits appointment of an examiner who, directly or indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary interest in any person or entity being examined.

Provides for limitation of liability of the commissioner or his authorized representative or appointee for good faith performance of the duties required pursuant to present or proposed law.

4. Requires financial review of group self-insurance funds authorized to do business in the state which shall include audited financial statements, results of prior examination and office reviews, management changes, consumer complaints, and other relevant information as may be required.

Failure of a fund to supply information requested by the Dept. of Ins. subjects the fund to revocation or suspension of its license or, in lieu of a suspension, a fine not to exceed \$10,000 per occurrence.

5. Provides that expenses of reviews and examinations are to be paid by the group self-insurance fund and that the commissioner may employ such examiners, auditors, accountants, actuaries, attorneys, and clerical or other assistants as necessary to conduct an examination and compile his report. Authorizes the group self-insurance fund to contest expenses incurred by the commissioner and provides a penalty for failure of a fund to pay expenses.
6. Provides for the scope of examination and the authority of the commissioner to take depositions, subpoena witnesses or documentary evidence, and to administer oaths and examine under oath any individual relative to the affairs of any group self-insurance fund being examined.
7. Authorizes the commissioner to employ investigators.
8. Provides for criminal penalties for certain intentional misrepresentations. Provides for failure of any person to comply with directives issued by the commissioner in connection with a consumer complaint.

Repeals provisions in the La. Ins. Code regarding examination of group self-insurance funds for workers' compensation which are now placed in Title 23.

Effective August 15, 2010.

(Amends R.S. 22:46(9)(a) and (10), 47(5), 48(A)(15), 451(A), and 452(1)(b), R.S. 23:1168(A), 1195(A)(1), 1197(C), R.S. 23:1197(F)(intro para), 1200; adds R.S. 23:1200.6 - 1200.17; repeals R.S. 22:461(J) and 1982)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill.

1. Removes provisions related to administrative hearings.
2. Removes references to fees.
3. Provides for confidentiality of certain documents produced by, obtained by, or disclosed to the commissioner or any other person, pursuant to the authority of the commissioner under present or proposed law and for exceptions.